

ESTTA Tracking number: **ESTTA752348**

Filing date: **06/14/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	High Water Brewing		
Entity	Corporation	Citizenship	California
Address	20 Independence Circle Chico, CA 95973 UNITED STATES		

Attorney information	Candace L. Moon The Craft Beer Attorney, APC 5095 Murphy Canyon Rd., Ste. 240 San Diego, CA 92123 UNITED STATES tm@craftbeerattorney.com Phone:6197494115
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Registration Subject to Cancellation

Registration No	4952567	Registration date	05/03/2016
Registrant	Jackson Hole Distillery, LLC 6250 Paintbrush Trail Wilson, WY 83014 UNITED STATES		

Goods/Services Subject to Cancellation

Class 033. First Use: 2015/11/06 First Use In Commerce: 2015/11/06 All goods and services in the class are cancelled, namely: Aperitifs with a distilled alcoholic liquor base; blended spirits; distilled spirits; liquor; potable spirits; prepared cocktails consisting primarily of distilled spirits and also including beer; spirits; spirits and liqueurs


Grounds for Cancellation

Priority and likelihood of confusion	Trademark Act Sections 14(1) and 2(d)
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Marks Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	4425448	Application Date	03/26/2013
Registration Date	10/29/2013	Foreign Priority Date	NONE
Word Mark	HIGH WATER BREWING		

Design Mark	High Water Brewing
Description of Mark	NONE
Goods/Services	Class 032. First use: First Use: 2011/03/16 First Use In Commerce: 2012/11/16 Beer

U.S. Application No.	86740606	Application Date	08/28/2015
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	HIGH WATER BREWING		
Design Mark			
Description of Mark	The mark consists of the words High Water Brewing with the W being shared for the word 'Water' and centered between the BRE and ING of 'Brewing'. The word Brewing is surrounded by an ornamental border with bottles and no stems.		
Goods/Services	Class 032. First use: First Use: 0 First Use In Commerce: 0 Beer		

Attachments	85886276#TMSN.png(bytes) 86740606#TMSN.png(bytes) Petition for Cancellation signed 06.14.2016.pdf(164366 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/clm/
Name	Candace L. Moon
Date	06/14/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of:

Trademark Registration No. 4952567

For the mark **HIGHWATER**

Date Registered: **May 3, 2016**

High Water Brewing,

Petitioner,

V.

Jackson Hole Distillery, LLC,

doing business as Jackson Hole Still Works.

Respondent.

Cancellation No.

PETITION FOR CANCELLATION

HIGH WATER BREWING, (hereinafter “Petitioner”), a California corporation, having a principal place of business located at 20 Independence Circle, Chico, California 95973, by its attorney, believes that it is damaged by the registration of the mark shown in Registration No. 4952567, issued on May 3, 2016, for the “HIGHWATER” mark (hereinafter “the Registration”), in International Class 033 for aperitifs with a distilled alcoholic liquor base; blended spirits; distilled spirits; liquor; potable spirits; prepared cocktails consisting primarily of distilled spirits and also including beer; spirits; spirits and liqueurs, owned by JACKSON HOLE DISTILLERY, LLC, doing business as JACKSON HOLE STILL WORKS, a Wyoming limited liability company, having a principal place of business located at 6250 Paintbrush Trail, Wilson, Wyoming 83014. Petitioner hereby moves for cancellation of the Registration.

As grounds for this Cancellation, Petitioner hereby states as follows:

1. Petitioner is a craft brewery located in Chico, California, which has been in operation since 2011.
2. Petitioner began using its HIGH WATER BREWING mark at least as early as March 16, 2011.
3. Petitioner filed a trademark application for its HIGH WATER BREWING mark on March 26, 2013, with the term BREWING disclaimed. The mark was filed in International Class 032 in connection with beer.
4. Petitioner received a trademark registration for its HIGH WATER BREWING mark, Registration No. 4425448, on October 29, 2013.
5. Petitioner has used the HIGH WATER BREWING mark exclusively and continuously since at least as early as March 16, 2011.
6. Petitioner has spent a considerable amount of time and resources to develop, promote, and market its goods under the marks.
7. Petitioner's HIGH WATER BREWING mark has garnered a strong reputation and considerable goodwill in the United States.
8. Petitioner filed for trademark application, Serial Number 86/740,606, for its HIGH WATER BREWING design mark on August 28, 2015.
9. Petitioner was refused registration of its design mark on the basis of likelihood of confusion with the Registrant's trademark registration.
10. Petitioner has a real interest in the current action and will likely be damaged by the above-identified mark.

Priority of Use; Likelihood of Confusion

11. Petitioner repeats and realleges each and every allegation set forth in the above paragraphs.

12. On information and belief, Registrant filed its trademark application for HIGHWATER on February 3, 2015, in International Class 033 in connection with aperitifs with a distilled alcoholic liquor base; blended spirits; distilled spirits; liquor; potable spirits; prepared cocktails consisting primarily of distilled spirits and also including beer; spirits; spirits and liqueurs.

13. On information and belief, Registrant's alleged date of first use of the HIGHWATER mark is November 6, 2015.

14. Petitioner has priority of use in the use of the HIGH WATER mark based on its continuous use since as early as 2011. Registrant, on the other hand, has only been using the mark since 2015.

15. Registrant's mark is confusingly similar to Petitioner's mark in sight, sound, meaning, and connotation.

16. Registrant's claimed goods are related to those of the Petitioner, so as to cause consumer confusion.

17. Registrant's goods travel in the same or similar trade channels as Petitioner's goods.

18. Registrant's goods are in the zone of natural expansion of Petitioner's goods.

19. Petitioner will be damaged by the continued registration of Registrant's mark in International Class 033.

WHEREFORE, Petitioner respectfully requests that its Petition for Cancellation be sustained and that the Registration of the mark HIGHWATER for International Class 033 set forth therein be cancelled.

This Petition for Cancellation is being filed electronically with the United States Patent and Trademark Office Trademark Trial and Appeal Board.

By: 

Candace L. Moon (CA Bar No. 260141)
The Craft Beer Attorney, APC
5095 Murphy Canyon Road, Suite 240
San Diego, CA 92123
Attorney for Petitioner

Date: 6/14/16

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of:

Trademark Registration No. **4952567**

For the mark **HIGHWATER**

Date Registered: **May 3, 2016**

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High Water Brewing,)	
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Petitioner,)	Cancellation No. <hr/>
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v.)	
)	
Jackson Hole Distillery, LLC,)	
doing business as Jackson Hole Still Works,)	
)	
Respondent.)	
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Petition for Cancellation, duly signed by attorney for Petitioner, has been served upon Registrant and Registrant's Attorney of Record by mailing a copy by U.S. Certified Mail on 6/14/16, addressed to:

Jackson Hole Distillery, LLC
doing business as Jackson Hole Still Works
6250 Paintbrush Trail
Wilson, WY 83014

Blair E. Kanis
Kutak Rock LLP
1801 California Street Suite 3000
Denver, CO 80202-2652

Date: 6/14/16

By: 
Candace L. Moon, Esq.